

REMARKS/ARGUMENTS

In the Office Action dated July 27, 2006, claim 1 was objected for the informality of using “may be” in line 16 and “may” in lines 21. Applicant has amended claim 1 to more definitively state the claimed invention. Applicant requests the objection be withdrawn.

Claim 1-3, 5-8, 10-11 and 13 were rejected under 35 U.S.C. 102(b) as being anticipated by Rees (UK Patent Application No 2,272,604). Further, claims 4, 9, 12, and 14 were rejected as being obvious in light of Rees when further considered in view U.S. Patent Application 005/0181781 (“Starks”) and also in view of “Instant Messaging and Presence Using SIP (“Donovan”).

Discussion of Amendments to the Specification

Applicant has amended the specification, specifically paragraphs 47, 48, 50, 51, and 59 to make the specification better reflect the invention. No new matter is being introduced. Paragraphs 47 and 48 are amended to better explain the operation of Figure 2; paragraph 50 is amended to state the correct reference number; paragraphs 51 and 59 are amended to better state the invention and be consistent with the operation of Figure 2.

Discussion of Amendments to the Claims

Applicant had amended the claims to better state the invention and correct various improper antecedent basis of the limitations. No new matter is being introduced. In addition, Applicant has added two new dependent claims.

Discussion of Rejections Under 35 U.S.C. 102

Independent claims 1 and 10 are rejected based on Rees. With respect to the anticipation of independent claim 1 (and 10) in light of Rees, there is a fundamental distinction between Rees and the present invention that does not appear to be fully recognized by the Examiner.

Referring to Figure 1 of Rees, the transmitter 11 and receiver 12 are located in the base communication station, which is indicated by the dotted line forming a box 10. At the base of the dotted line are the letters “GSM BSS”. According to Rees, page 3, line 34, this is a “GSM base station.”

Rees also discloses another dotted line box, identified by the number 21, comprising boxes 31 and 32. As stated in Rees page 4, lines 7-11, this is the “remote base station diagnostics subsystem” or RBDS. The RBDS 21 comprises a controller 31 and a modified GSM mobile station 32, “which is used as a test transceiver.” (Id, page 4, lines 15-18). Rees shows that the RBDS is connected via a dotted line to the base station, presumably indicating that control messages are based back and forth.

In Rees, the RBDS mobile station transceiver generates a signal that is received by the base station receiver 21 and diversity receiver 13 using couplers 19 or 18. Thus, the RBDS interacts with the base station without transmitting or receiving signals over the air, using the base station antennas. In another application, the RBDS receives a signal that is generated by the base station transmitter 11, again, without relying on over-the-air radio transmission. In this case, the controller 20 of the base station is the entity generating the test call. One distinction of Rees is that the signals to/from the testing unit go directly into, or out of, the receivers or transmitters via the couplers (19, 18, and 14). There is no over-the-air transmission required.

In contrast, in the present invention, the receive sensitivity measuring device includes a separate first receiver and second transmitter (213) and a separate second receiver and transmitter (215). All of these are test receivers/transmitters are separate from the transmitter/receiver of Path A (110) and the receiver of Path B (120) in the base station. *Thus, the receiver sensitivity measuring device is distinct from the base station and does not rely on the base station transmitter and the base station receiver for performing measurements.*

In summary, one distinction is that *Rees relies on the receivers in the base station* for processing a test signal. In the present invention, the signal received by the antenna is coupled into a *separate test receiver for processing*. The present invention does not rely on the base station’s test receiver. Similarly, another distinction is that *Rees relies on the transmitter of the*

base station for generating a test signal. In the present invention, the test signal is generated by a separate transmitter.

This is a benefit of the present invention as it allows measuring of the communication base station while the base station is providing service. Specifically, there is no requirement to interrupt usage of the transmitter in the base station as disclosed by Rees. In Rees, using the transmitter to initiate a test would interrupt the use of the transmitter for other services. In the present invention, the base station is not required to be interrupted or modified.

The claimed invention limitations are not anticipated by Rees

In examining the rejection of claim 1 (which applies to claim 10 as well), the Examiner erroneously identifies the transmitter (11) in Rees as anticipating the “first transmitter” in claim 1. The “first transmitter” in claim 1 corresponds to item 213a of Figure 2 of the present application. The claim (with amendments shown) states “a first transmitter for receiving a first signal from the transmit_and_receive path.” Examining Figure 2 of the present specification, the coupler 112 obtains signals both from the transmit and receive path, which are provided to the transmitter 213a.

In contrast, transmitter 11 of Figure 1 of Rees, only transmits a signal to a transmit antenna. The coupler 14 allows a portion of the signal to be fed via switch 26 to the RBDS 21, but that does not negate the fact that the transmitter 11 in Rees does not “receive a signal from the...receive path.”

Similarly, the “second transmitter” in the claim corresponds to (215a) in Figure 2 of the present invention and was erroneously identified the test transceiver (32) in Rees. In the case of the “second transmitter” (215a), it receives the signal from the coupler 122 which is connected to the diversity receive antenna (121) and the signal from the coupler 122 is transmitted to the combiner 211, which is then provided to the terminal 220. This reflects the limitation “a second transmitter for receiving a second signal from the receive-only path, and transmitting the second signal to the terminal.”

The test transceiver (32) of Rees is read as the “second transmitter.” However, in Rees, the test transmitter 32 in the RBDS (21) transmits a signal to the switch 33, which via coupler 19 or 18 are provided to the base station receiver or diversity receiver. However, the claim limitation states “transmitting the signal to *the terminal*,” not to the base station.

Thus, in the present invention, the “second transmitter” is not located in the base station, but in the receiver sensitivity measuring device. In contrast, the test transceiver of Rees is transmitting a signal that is received by the base station.

It should become clear, with this understanding, that although Rees discloses transmitters and receivers using for testing, these are not the same transmitters and receivers that are recited in the claims. Clearly, the additional limitations in the claims are not anticipated by Rees.

Consequently, it becomes clear that some of the structures analogized between Rees and the present claim limitations are inapposite. For example, the Office Action (page 4,) alleges that the controller 20 and 31 read upon the “terminal” in the claim. The controller 20 in Rees is the controller of the base station and hence cannot be analogized to the “terminal” in the claim. The “terminal” is separate from the base station in the present invention, and reading the controller from the base station is not the same element. To the extent the terminal 220 in the present invention has functions analogized to the controller 20 in Rees, the terminal 220 is completely external to the base station.

As for independent claim 10, for the same reasons why independent claim 1 is distinct over Rees, that independent claim 10 is as well. In addition, claim 10 recites a method in which the communication has a “a transmit-and-receive path and a receive-only path” and there is no corresponding structure that is disclosed as such in Rees. Rather, Rees discloses a “transmit-only path” and a “receive-only path”, but not a “transmit-and-receive path”.

Applicant, for brevity, has not addressed each and every of the allegations associated with the dependent claims, as the dependent claims incorporate the limitations of the independent claims. However, Applicant submits that the independent claims 1 and 10 are patentable over Rees. Applicant further submits that Rees, when considered in light of Starks does not render

obvious claim 4, 9, and 14. First, considering claim 4, which recites the “terminal is attachable to and removable from the receive sensitivity measuring device.” This further illustrates why alleging that controller 20 in Rees, which is in the base station, cannot be equated to the “terminal,” as discuss previously. The controller is an integral part of the base station in Rees, and cannot be ‘removed’ from the base station as recited in claim 4.

As for the other dependent claims which are alleged to be obvious when combining Rees with other references or when combined “Official Notice,” Applicant for brevity disputes that such combinations would be obvious, or well-known in the art, but considers such arguments as moot in light of the fact that Rees does not disclose the claim limitations for which it is alleged to disclose.

Appl. No.: 10/517,682
Amdt. dated October 25, 2006
Reply to Office Action of 7/27/2006

Conclusion

Applicant has amended the claims to better state the invention and so that the claim objections can be withdrawn. Applicant submits that the Rees reference does not disclose the claim limitations for which it is relied upon, and that the combination of Rees and the other references is insufficient to render obvious all the limitations in the dependent claims alleged to be obvious.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

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